

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

Francisco Olvera,	)	Case No.: 8:20-cv-2857-JD-KFM
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<b>OPINION &amp; ORDER</b>
City of Walhalla, Elijah Hayes, Brian Smith,	)	
and Christopher Brinson,	)	
	)	
Defendants.	)	
_____	)	

This matter is before the Court with the Report and Recommendation of United States Magistrate Kevin F. McDonald (“Report and Recommendation”), made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2) of the District of South Carolina.<sup>1</sup> Francisco Olvera (“Olvera” or “Plaintiff”), proceeding *pro se*, seeks damages based on alleged civil rights violations pursuant to 42 U.S.C. § 1983.

Plaintiff filed a Motion to Amend/Correct Complaint (“Motion to Amend”) on December 29, 2020. (DE 24.) On January 1, 2021, Christopher Brinson (“Brinson”) and City of Walhalla (Brinson and City of Walhalla collectively “Defendants”) filed a Memorandum in Opposition to Mr. Olvera’s Motion to Amend/Correct Complaint. (DE 26.) Defendants filed a Motion to Dismiss on January 13, 2021. (DE 28.) The Report and Recommendation was issued on February 5, 2021, recommending that Plaintiff’s Motion to Amend be denied and the Defendants’ Motion

---

<sup>1</sup> The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

for Judgment on the Pleadings be granted as to 12<sup>th</sup>, 15<sup>th</sup>, and 23<sup>rd</sup> causes of action in the proposed amended complaint and denied as to the Plaintiff's 24<sup>th</sup> and 25<sup>th</sup> causes of action in the proposed amended complaint. (DE 38.)

There were no objections filed to the Report and Recommendation. In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The Court must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Upon review of the Report and Recommendation and the record in this case, the Court adopts the Report and Recommendation and incorporates it herein by reference.

It is, therefore, **ORDERED** that Plaintiff's Motion to Amend be denied as the Plaintiff's 24<sup>th</sup> and 25<sup>th</sup> and causes of action in the proposed amended complaint and grants the motion as to the 12<sup>th</sup>, 15<sup>th</sup>, and 23<sup>rd</sup> causes of action, and Mr. Olvera is directed to file an amended Complaint that excludes the cases of action for which leave to amend has been denied or judgment has been granted. Further, Defendants' Motion to Dismiss is granted.

**IT IS SO ORDERED.**

s/Joseph Dawson, III

---

Joseph Dawson, III  
United States District Judge

Greenville, South Carolina  
May 11, 2021

**NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.